

North Hempstead Business & Tourism Development Corporation Business Development Seminar Series:

What to Know Before Opening/Expanding a Business A Guide to the Building Permit Process



Town of North Hempstead Building Department
Judi Bosworth, Supervisor John Niewender, Commissioner

LEGAL ISSUES

Hire the right professionals

- Attorney
- Architect/Engineer
- Environmental Consultant



ESSENTIAL DUE DILIGENCE

Phase I Environmental Site Assessment

- History of site and nearby sites
- Asbestos
- Underground tanks
- Nearby affected sites
- Underground plumes

Further testing warranted?

- Vapor intrusion test
- Phase II ESA



ESSENTIAL DUE DILIGENCE

Title Search

- Mortgages
- Restrictive Covenants
- Easements
- Taxes
- Mechanics or other liens

WESTCOR
Land Title Insurance Company

COMMITMENT FOR TITLE INSURANCE

ISSUED BY
WESTCOR LAND TITLE INSURANCE COMPANY

Western Land Title Insurance Company, a California Corporation, hereinafter referred to as the "Company", for valuable consideration, does hereby certify to the proposed insured named in Schedule A that an examination of title to the land as set forth in Schedule A has been made in accordance with the Company's usual procedures as the Company consents to issue its policy or policies of title insurance, and identified in Schedule A, in favor of the proposed insured, as owner or mortgagee of the land or interest therein, the title to the land described or referred to in Schedule A, upon payment of the premium charged hereunder, of subject to the provisions of Schedules A and B hereto and the Conditions and Exclusions, Standard Exclusions and Standard Exceptions hereto, all as set forth herein.

This Commitment shall be null and void: (1) if the fees hereon are not paid; (2) if the proposed insured, his attorney or agent, makes any untrue statement with respect to any material fact or suppresses or fails to disclose any material fact, or if any untrue answers are given to material inquiries by or on behalf of the Company; and (3) upon delivery of the policy.

Any claim arising hereunder or by reason of the insurance hereof shall be restricted to the terms and conditions of the standard form of title insurance policy. If the proposed insured requires or requires, any interest or title to be insured hereunder prior to the delivery hereof, the Company assumes no liability hereunder except under the policy when issued.

The use of this Commitment is intended for attorneys only. The exceptions as may be set forth herein may affect the marketability of the title to the land set forth in Schedule A hereto. You should consult your attorney before making any action based upon the contents hereof. The Company's representative at any closing held hereunder may not and will not act as legal adviser to any of the parties to the closing or to any legal instrument for such parties. Such representative is permitted to be of assistance only to an attorney. You are advised to have your own attorney present at any closing held hereunder.

In Witness Whereof, the Company has caused its Corporate Name and Seal to be hereunto affixed, and this instrument, including the Conditions and Exclusions and Standard Exceptions hereto, to become valid when Schedules A and B have been attached hereto.

John M. Wilson
By: *John M. Wilson*
President

Record By: 11124
Advantage Title Agency, Inc.
201 Old Country Road, Suite 200
Manhasset, NY 11764

Order #: 15-AVN-49023

OW T 99 Commitment for Title Insurance - NEW YORK (06/7C Edition 12/12/06)

ESSENTIAL DUE DILIGENCE

Zoning/Land Use

- Not all “Commercial” uses are the same
- Permitted or not?
 - Special/Conditional Use permit required
 - Non-conforming use
 - Use variance
- Parking Requirements



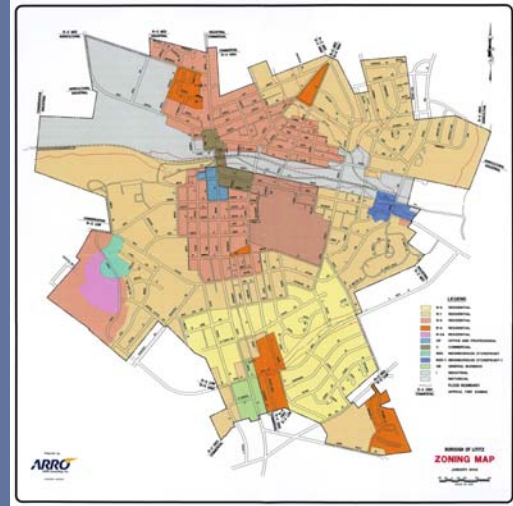
COUNSELORS AT LAW
**Forchelli, Curto, Deegan,
Schwartz, Mineo & Terrana, LLP**
FORCHELLILAW.COM

This material is for informational purposes only and is not intended as legal advice. It is designed to raise general issues and is not intended for use in a particular transaction. To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein

BEFORE YOU FILE

What is Zoning?

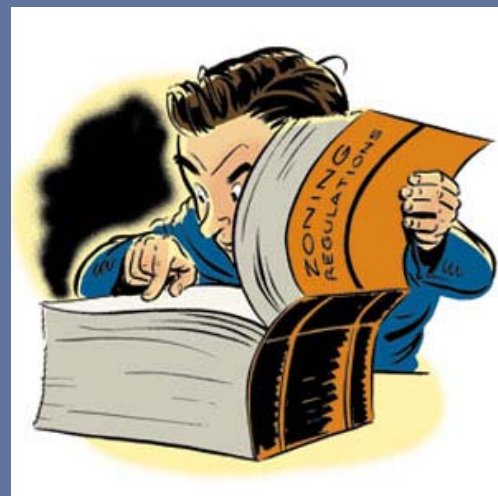
- The regulation of land use by dividing the town into different districts such as residential, commercial, and industrial. Within each category, land is zoned for particular uses.



BEFORE YOU FILE

Permitted Uses

- Specifically listed in the code as allowable anywhere in the zoning district
- Use may be continued or re-established by a future owner or tenant
- Is not specific to brand name



BEFORE YOU FILE

Conditional/Special Uses

- Generally permitted, but with location-specific criteria
- Must be authorized by Town Board (special use) or Zoning Board (conditional use) after a public hearing
- Not always transferrable to a new owner or tenant



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BEFORE YOU FILE

Application Process

- Plans and documents
- Required licenses/stamps
- Fees



BEFORE YOU FILE

Notice of Disapproval

- Issued when plans do not comply with code
- Are appealable to Zoning Board if disputed
- Applicant may also redesign to comply, seek a variance or seek a code or map amendment

Town of North Hempstead
Department of Building, Zoning, Inspection & Enforcement
 218 Plandome Road, Manhasset, NY 11030 or 516-465-7675 fax 516-465-7676

NOTICE OF DISAPPROVAL
 April 23, 2017

Subject: 151-24067
Block: 016
Lot(s): 002
Proposed Location: 123 South Street, Port Washington, New York, 11090
Zone: B-1-B

Proposed work: Interior alterations for conversion of a retail space to a restaurant
Owner: John Smith, 123 Main Street, Manhasset, New York, 11030
Architect: Jane Jones, 456 Park Avenue, Great Neck, NY 11022

Dear Applicant:

PLEASE BE ADVISED that your application for a permit has been **DISAPPROVED** in contrast to the code of the Town of North Hempstead as follows:

- 78-108A:** A fast food restaurant shall provide one parking space for each 1 seat or 2 persons which can be legally accommodated for patrons. In addition, required parking shall be provided as follows: a minimum of 1 space for every 17 seats. In no case shall fewer than 4 spaces be provided.
 Previously required parking for this use: 2 spaces
 Previously provided parking spaces for this use: 0 spaces
 Required parking for future use: 17 spaces
 Provided parking spaces: 0 spaces
 Variance is being sought for increase in required number of parking spaces: 16 additional required parking spaces
- 78-129A:** Conditional Use: A building may be erected, altered or used and a lot or premises may be used for any of the purposes set forth in this Article, when authorized by the Board of Zoning and Appeals pursuant to the provisions of Article XXIV and for no other.

Proposed: Restaurant other than a drive-in fast food requires a conditional use from the Board of Zoning and Appeals.

Should you have any questions regarding this notice, please feel free to contact me at manhasset@northhempstead.org.

Sincerely,
 Glenn Neugebauer
 Planning Examiner

Section 247-a of the Town Law requires that any appeal to the Board of Zoning Appeals shall be filed within sixty (60) days. Failure to file an appeal with the Town of North Hempstead Board of Zoning Appeals within sixty (60) days of the date of this notice will result in the expiration of the Building Permit Application. This letter is strictly informational.

BEFORE YOU FILE

Places of Assembly

- A Place of Assembly includes any building or part thereof, except for single-family uses, which is occupied or arranged to be occupied to accommodate 49 persons or less for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes, the entire fire area of which it is part and the means of egress therefrom.
- The Town requires all Places of Assembly to obtain a one-time license which is issued after an inspection.

BEFORE YOU FILE

Public Assembly

- ⦿ A Place of Public Assembly includes any building or part thereof which is occupied or arranged to be occupied to accommodate 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes, the entire fire area of which it is part and the means of egress therefrom.
- ⦿ The Town of North Hempstead requires all Places of Public Assembly to obtain an annual license which is issued after an inspection.

BEFORE YOU FILE

Change of Use

- ⦿ Any change in the use of a building or property or addition of a new use to a building or property requires a Building Permit.
- ⦿ Examples of this would be a gasoline station deciding to sell used cars, a marble tile company wanting to store materials outdoors, installation of fencing, expansion of parking areas, etc.

BEFORE YOU FILE

Change of Occupancy

- ◉ A change of occupancy occurs anytime one business closes down and a new business opens in the same location. Every change of occupancy requires a Building Permit.

But I leased the premises this way.....

- ◉ The current owner might be responsible for legalizing any unpermitted improvements or alterations.
- ◉ Visit the Building Department and review the historic file for the property prior to entering into a lease agreement.
- ◉ Consult with an attorney before entering into any contract to better understand your role and responsibility.

BOARD REVIEWS

Types of Board Reviews

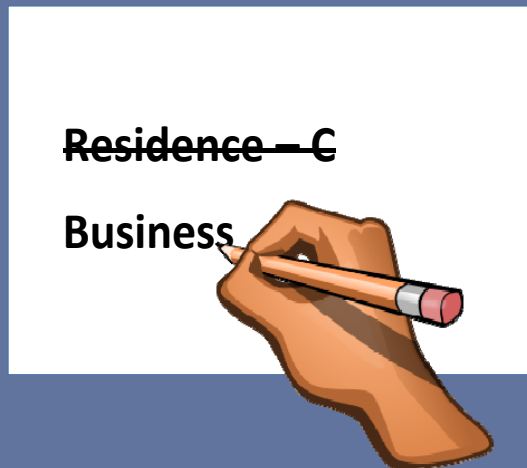
- Change of Zone
- Site Plan Review
- Conditional/Special Use
- Variance



BOARD REVIEWS

Change of Zone

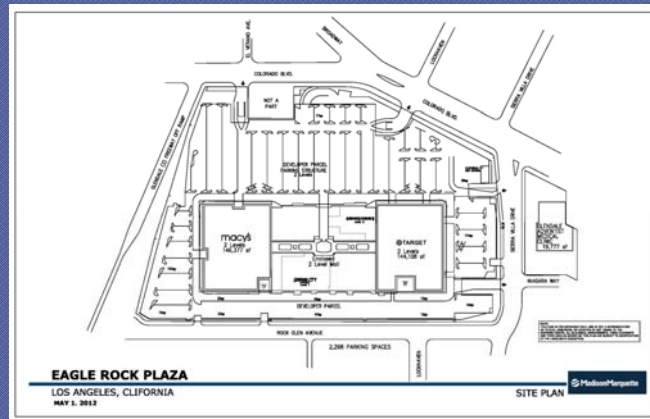
- Also known as a “zoning map amendment”
- Heard by Town Board as legislative body
- Changes property to another zoning district
- Property may then be used for any Permitted Use within new zone



BOARD REVIEWS

Site Plan Review

- Heard by Town Board sitting as Planning Board
- Use has already been determined to be allowable
- Review of design adequacy
- Evaluation of impacts to other properties



BOARD REVIEWS

Conditional/Special Use Permits

- Allows for site-specific considerations
- Applicant is entitled if they meet criteria
- May sometimes be approved for a limited duration
- Will nearly always have a list of approval conditions



BOARD REVIEWS

Variances

- 'Use' vs. 'Area' variances
- Appeals for Determination
- Review criteria established in State Law
- Applicant not entitled unless a hardship is demonstrated



BOARD REVIEWS

Hearing Process

- Required submissions
- Legal notices
- Conduct of hearing
- Decisions and Resolutions



CONSTRUCTION

Prior to Starting Work

- Provide names of contractors
- Provide proof of insurance
- Call for utility mark-outs
- Wait for go-ahead from Inspector



CONSTRUCTION

During Construction

- Required Inspections
- Maintenance of site
- Night and weekend work
- Inspections by other agencies



CONSTRUCTION

After Construction

- Final Inspection
- As-built surveys
- Certificates of Occupancy/Completion
- Long term responsibilities



North Hempstead Business & Tourism Development Corporation
Business Development Seminar Series

Any Questions?

